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New York, NY 10017
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P: 1-646-930-2077 | F: 1-646-930-7032 | C: 1-646-923-1070 E: caglar@caglarlaw.com | www.caglarlaw.com

October 11, 2021

Deborah L. Meiners Attorney Advisor Law Office 110 (571) 272-8993 Deborah.Meiners@USPTO.gov Via TEAS electronic System

Re: Response to None Final Office Action

Dear Examining Officer,

Reference is made to the nonfinal office action and following is our response to the *issue of merely descriptiveness*. Other issues of the action letter such as description of the mark, color claim and specimen are corrected within relevant section of the online TEAS system.

First, the applicant's mark has acquired distinctiveness over the years as per TMEP § 1212.06. It has gained enough recognition that consumers associate the mark with a good or service. The applicant put a significant amount of time, money, and effort into his mark that it has gained a significance among the consuming public that is different than the dictionary meaning of the mark.

In accordance with 37 CFR § 2.41, the mark had five years of substantially exclusive and continuous use by the applicant; and actual evidence showing the duration, extent and nature of use of a mark.

The applicant's mark is not merely descriptive of the goods or services but is rather only suggestive.

As discussed in TMEP § 1212.06, the factors of making a mark "distinctive" are length of time, advertising expenditures, affidavits or declarations by the trademark owner, survey evidence, market research, consumer reaction studies and other miscellaneous factors.

In considering these factors, the applicant has had the mark for over 5 years and has been successfully continuing its exclusive usage without any objections to its mark.

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In addition, the applicant has made following significant advertising expenditures for his mark since 2016:

As for *outdoor signage, grand opening and SEO expenses*, the applicant spent \$175,000 in total.

For <u>advertising expenditures</u>, the applicant has made the following expenditures in <u>google</u> <u>advertising</u>: \$241,000.

As for *social media expenses*, the applicant has spent \$83,000.

*For marketing service fees*, the applicant has spent \$1,728,300

For webdesign Costs, the applicant spent \$15,000.

As for *initial one-time Marketing set up investment*, the applicant spent \$70,000.

As for hosting and email management fees, the applicant spent\$11,250.

As for *visual content/photography/videography and graphic designs*, the applicant spent 112,110 in totals.

For *flyer*, *direct mails*, *call tracking*, the applicant spent \$64,800 in total.

Please see the company CEO's certification letter confirming these expenses in connection with the mark and sampling advertisement and promotional materials at **Exhibit A**.

### **Public Recognition**

The applicant's mark also got public recognition as it got published on *The Washington Post*, *The Free Lance Star*, *Daily press* and *The Fredrick News Post*. Also published on Oyster Point, DC post, the Home Atlas,

Please see Exhibit B for the publications of the applicants mark on the newspapers.

We also provided the links of these newspaper articles in which Kitchen and Bath shop has been featured in.



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Https://www.dailypress.com/business/dp-tidewaterbiz-kitchen-bath-city-center-20190312-story.html

Https://www.fredericknewspost.com/news/economy\_and\_business/retail/the-kitchen-bath-shop-opens-in-frederick/article\_aecbb6d7-2d33-5853-a945-27a7fdf5cc23.html

Https://oysterpointer.net/kitchen-and-bath-shop-remodeling-at-its-best/

Https://thedcpost.com/everything-you-need-to-know-kitchen-upgrade/

Https://thehomeatlas.com/top-fairfax-remodeling-companies/

After the mark was featured in many newspaper articles and shown in other websites, Kitchen and Bath shop has gained more public attention and popularity, therefore, started growing. Local and national newspapers request interviews with the owner quite often. Thus company was able to open over 15 "showrooms" across the United States and is planning to hit at least 23 stores by 2022. The kitchen and bath shop has shops in these following states including the DMV area:

Alexandria,

Chantilly,

Columbia

Fairfax

Frederick

Fredericksburg

Houston

Laurel

Leesburg

Manassas

Newport News

Rockville

Virginia Beach

Waldorf

Washington D.C

The company spent, approximately, \$1,675,000 to set up and launch the operations of above-mentioned showrooms.



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### Company's sales:

As another result of the company's big recognition and popularity across the U.S., the company was able to reach a high volume of sales to venders, suppliers, distributors, shops, in a national degree and has become one of the largest remodeling companies in the DMV area. With over 15 locations scattered around the region, one of its flagship stores is in Fairfax, VA, it has two locations that are serving Fairfax County: Alexandria and Fairfax locations. Featured in national outlets like Washington Post, and local news publications such as DC Post, Frederick News Post, Free Lance Star, and Daily Caller, Kitchen and Bath Shop is the best known for its corporate structure, experience and smooth process. The company is licensed, insured and bonded and also offers financing options.

Based on the foregoing, the applicant merits the registration of the mark for himself, and we respectfully request you to grant the registration.

Very truly yours,

Metin Caglar, Esq.

## Exhibit A



6955 Oakland Mills Rd Suite M1, Columbia, MD 21045

### To Whom It May Concern:

This letter hereby confirms that Paul Panah Ibrahimov has either made directly or through partner locations \$2,489,210 in total expenses to build, brand and operate Kitchen and Bath Shop and its locations since 2016.

Breakdown of expenses since 2016 is as follows:

- Google Advertising Expenses: \$241,000
- Social Media Expenses: \$83,000
- Marketing Agency Fees: \$1,728,300
- Website Design Costs: \$15,000
- Initial One-Time Marketing Set Up Investment: \$70,000
- Hosting Fees: \$4,320
- Email Management Fees: \$11,250
- Visual Content/Photography/Videography: \$84,000
- Graphic Design Fees: \$12,540
- Call Tracking Fees: \$6,800
- Flyer and Direct Mails: \$58,000
- Grand Opening Expenses: \$34,000
- SEO Expenses: \$141,000

Total: \$2,489,210

Sincerely,

Date: 07/20/2021

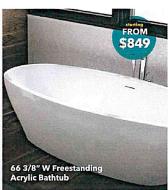
Paul Panah Ibrahimov Chief Executive Officer

Tel: (410) 290-9099 info@kitchenandbathshop.com www.kitchenandbathshop.com

Kitchen & Bath Shop offers a wide variety of bathroom products to help you create a bathroom that's well-designed and matches the style you're going for. From traditional tastes to contemporary and anywhere in-between, we have products that coordinate seamlessly. Work together with our designers to create a bathroom that you'll actually enjoy spending time in. You'll have no trouble finding what you need, including bathroom vanities, shower doors, toilets, bathtubs, mirrors, vanity lights, bathroom faucets, shower fixtures and bathroom sinks. Start planning your fabulous new bathroom today.





















kitchen C ba

### VISIT ONE OF OUR LOCAL SHOWROOMS

There's nothing like seeing our quality products in person. You get the chance to actually see what our flooring, sinks, countertops, and other products look and feel like. Stop in at one of our locations. We'll be happy to show you around and help you find exactly what you're looking for.

### **ALEXANDRIA**

Office: 703.552.2454 5601 General Washington Dr. Unit#H Alexandria, VA 22312

### **LEESBURG**

Office: 703.544.2557 201 Crescent Station Ter. SE Leesburg, VA 20175

### CHANTILLY

Office: 703.552.2515 4008 Walney Rd, Unit#C Chantilly, VA 20151

### LORTON

Office: 703.544.2426 7000 Newington Rd, Suite#J Lorton, VA 22079

### FAIRFAX

Office: 703.651.1527 3204 Old Pickett Rd, Unit#1A Fairfax, VA 22031

### **ROCKVILLE**

Office: 301.416.5424 1055 Rockville Pike, Rockville, MD 20852

### FREDERICKSBURG

Office: 540.469.4959 4226 Plank Rd. Fredericksburg, VA 22407

### WASHINGTON DC

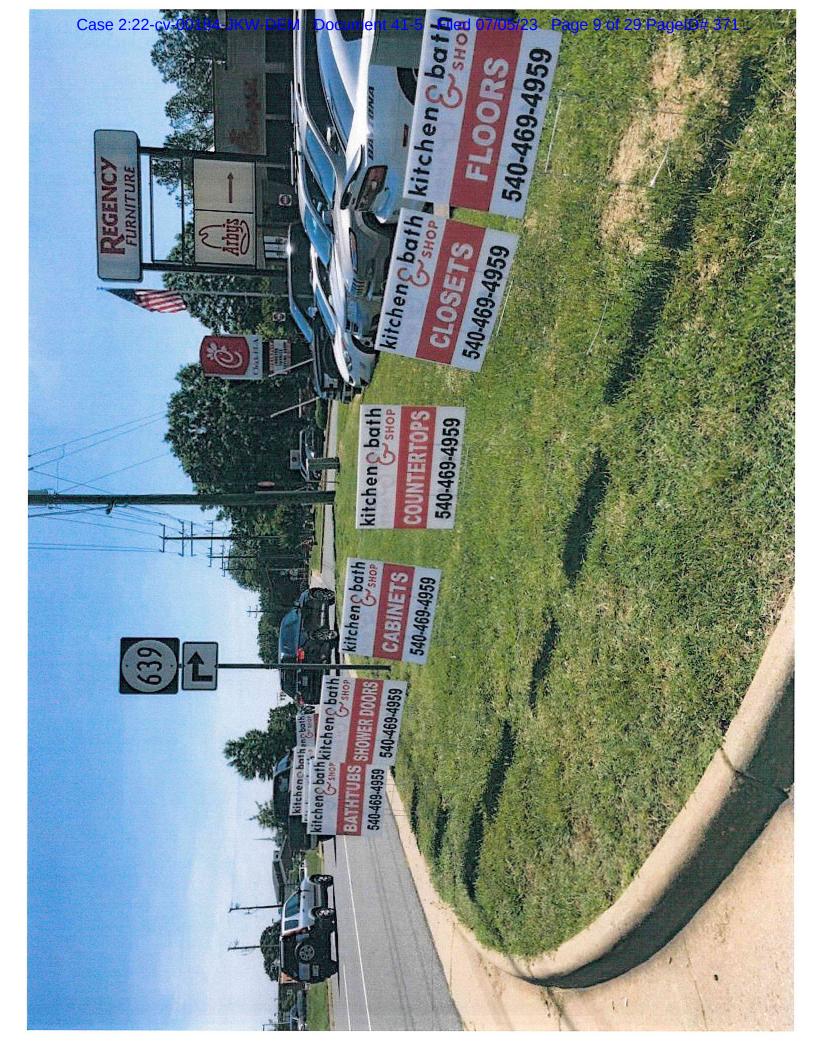
Office: 202.552.6681 3170 Bladensburg Rd, Washington, DC

kitchenandbathshop.com @ @ @ 540.322.0330









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Office: 703.651.1527 3204 Old Pickett Rd, Fairfax, VA 22031

FREDERICKSBURG Office: 540.469.4959

4226 Plank Rd. Fredericksburg, VA 22407 LEESBURG

Office: 703.544.2557 201 Crescent Station Ter. SE Leesburg, VA 20175

ROCKVILLE

Office: 301.416.5424 1055 Rockville Pike, Rockville, MD 20852

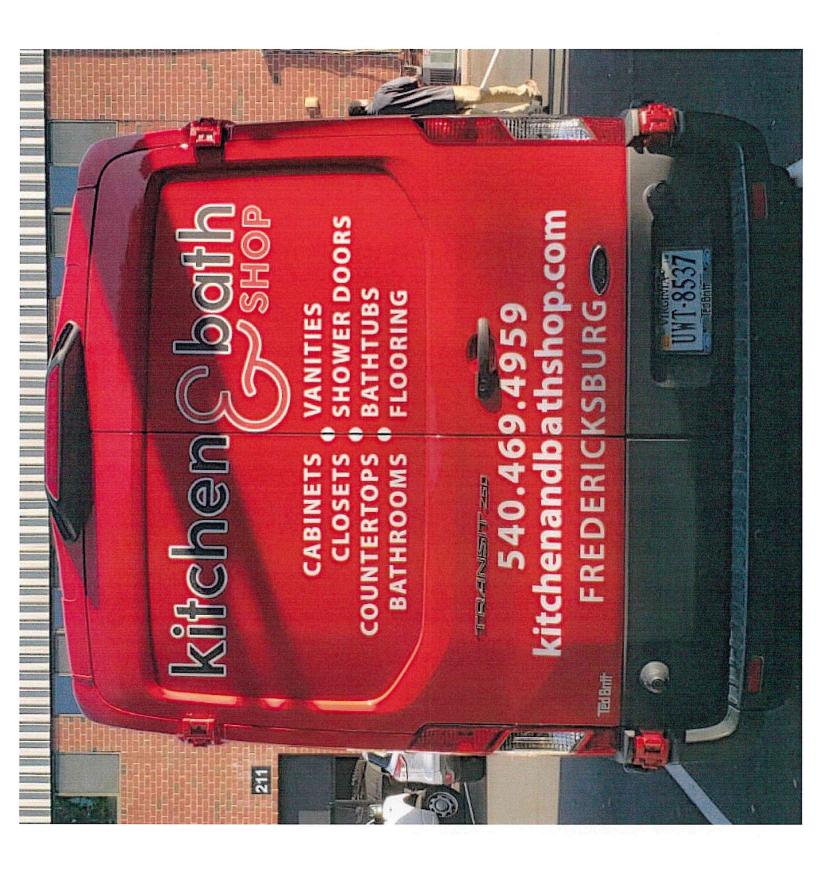
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## Exhibit B

Home (https://thehomeatlas.com/) » 6 Top Remodeling Companies in Fairfax County

RENOVATION (HTTPS://THEHOMEATLAS.COM/CATEGORY/RENOVATION/)

### 6 Top Remodeling Companies in Fairfax County



BY <u>ASHLEY HUFSMITH (HTTPS://THEHOMEATLAS,COM/AUTHOR/ASHLEYHUFSMITH/)</u> APRIL 15, 2021



hoosing a good contractor for your remodeling project is essential to have a hassle-free experience. We have gathered the best companies in Fairfax County for your convenience.

There are over 600 remodeling companies with some type of showrooms in the entire DMV region and over 20,000 freelance contractors. It is not a good idea to get estimates from more than 5 companies since all of them will have to visit your house to give you an estimate and/or probably meet you in their showroom to go over the estimate and other details. We have researched tons of companies and zoom in on these six companies stationed in Fairfax County based on their reviews, average pricing, and project management capabilities. All of these companies are "one-stop" remodelers, meaning that they do both design and installation.

### 1. GBC Kitchen and Bath

GBC Kitchen & Bath is one of the oldest remodelers in Fairfax County. They are located in Springfield and mostly serve areas that include Alexandria, Fairfax Station, and Arlington. Featured in the Washington Post for providing affordable remodeling packages for customers in this area, this company also has another location in Rockville, Maryland. It doesn't offer financing. The company is licensed, insured and bonded.

It is a one-stop-shop complete remodeling company. They have 128 reviews on Google with an average of 4.8-star review.

### **GBC Kitchen and Bath Reviews:**



When we first decided that we would do a major remodel on our kitchen, I began researching companies. GBC Kitchen and Bath was one of the first companies that I came across. After researching other companies, GBC stood out. They had many great reviews based on their quality of work, price, and professionalism. We opted to do a consult with them. During the initial consult, we met with George Bryan, the designer. We gave him our budget range, and a general idea of what we wanted. He came back with a great design and within the budget range (we ended up going slightly over the budget but that was because we added on some stuff along the way). George was very professional and responsive. We ran by a lot of different ideas by him, and he would always give his honest opinion. Also, he was very helpful when it came to choosing countertops, backsplash, cabinetry, etc. When the project began, we were assigned our project manager, Ray. Ray was great. He was very professional and responsive to any questions we had and would constantly give us updates about what the crew would work on and when. He was easy to communicate with. During the project, the crew took all of the necessary COVID precautions and masks were worn at all times. They gave us a timeline of 4 weeks and they actually were done 1 day early! How often do contractors actually get done guicker? I'm so used to projects taking longer that expected so this was a breath of fresh air. They only reason it took 4 weeks was because the Alexandria City took a long time to actually come out to inspect. Ray and warned us up front that Alexandria City was notoriously slow for inspections. The finished product of our kitchen is outstanding. We received a lot of compliments on the design and quality of work, including my father-in-law, who is quite good at finding at finding even the smallest imperfections, saying, "They knocked it out of the park. I can't find anything wrong with it.". Overall, I can't say enough good things about our experience with the GBC team with a special thanks to George, Ray, and the entire crew that worked on kitchen.

(https://gbckitchenandbath.com)

Google Reviews



12/30/2020

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(https://www.angieslist.com/companylist/us/va/alexandria/gbc-kitchen-and-bath-reviews-453571.htm)

Angie's List Reviews



Relationship Client

GBC Kitchen is fantastic. We were very stressed when picking a company to remodel our kitchen. From day 1 GBC was responsive, fair, and extremely buttoned up. With COVID, they continued our project, keeping their workers and our family safe. Our kitchen came out beautiful; feels like a new home. Our project manager Liz Rivas deserves the biggest shout-out. I have never met someone so responsive and accommodating. Her job was far from easy due to the pandemic, but she made it happen. I highly recommend GBC; we honestly feel like we are friends with Liz now. We are thankful we found them and we highly recommend them.

Read Less ^









Houzz Reviews

GBC Kitchen and Bath is offering a free estimate and design for customers and no obligation to purchase. If you want to get a \$1,000 credit from GBC Kitchen and Bath, click here to redeem your coupon, (https://form.jotform.com/211035898356159)

Alexandria showroom: 5601 General Washington Dr. UNIT H, Alexandria, VA 22312

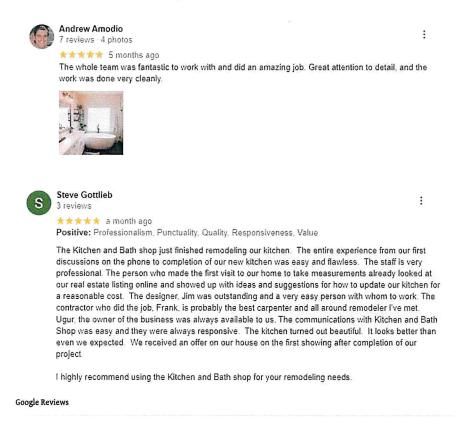
Rockville showroom: 1055 Rockville Pike Rockville, MD 20852

### 2. Kitchen and Bath Shop

Kitchen and Bath Shop is one of the largest remodeling companies in the DMV area. With over 15 locations scattered around the region, one of its flagship stores is in Fairfax, VA. It has two locations that are serving Fairfax County: Alexandria and Fairfax locations. Featured in national outlets like Washington Post, and local news publications such as DC Post, Frederick News Post, Free Lance Star, and Daily Caller, Kitchen and Bath Shop is the best known for its corporate structure, experience and smooth process. It offers financing options. The company is licensed, insured and bonded.

Kitchen and Bath Shop is offering a free estimate and design for customers with no obligation to purchase. If you want to get a \$1,000 credit from Kitchen and Bath Shop, <u>click here to redeem your coupon</u>, (<a href="https://form.jotform.com/211035898356159">https://form.jotform.com/211035898356159</a>)

### Kitchen and Bath Shop Reviews:



Alexandria Showroom: 5601 General Washington Dr Suite E, Alexandria, VA 22312

Chantilly Showroom: 14240 Sullyfield Cir Suite C, Chantilly, VA 20151

### 3. Daniels Remodeling

Daniels Remodeling is a family owned business located in Fairfax, Virginia. Founded by owner and CEO Ted Daniels in 1997. The company takes prides at great designs and seamless process in projects. Daniels is licensed, insured and bonded.

### **Daniels Remodeling Reviews:**



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## Kitchen and Bath Shop: Remodeling at its best



Harun Abacioglu, general manager, ready for customers in one of the attractive, modern kitchen displays at Kitchen and Bath Shop. (Photo by Cathy Welch)

"I had always wanted to come to the U.S," says Harun Abacioglu (pronounced ha-roon A-ba-see-ag-loo), whose name translates "man who sells cloth." Abacioglu came to this country as a young man and graduated from college in Northern Virginia. Born in Istanbul, Turkey (population 17 million), he learned English in high school. He is now a U.S. citizen.

Abacioglu has been on the Virginia Peninsula since 2015. He was able to open his own Kitchen and Bath Shop in February of this year. Kitchen and Bath Shop is a leading retailer of kitchen, bathroom and home products, with eight locations in Northern Virginia and

Maryland. It also offers home remodeling. "We are a one-stop shop," says Abacioglu. "Our award-winning designers assist the customer with putting together the 'perfect package," he adds. "We want the remodeling to be as easy as possible for the customer. We remove the stress and hassle."

The extensive website has illustrations of many choices. One outstanding item is a free-standing tub. An elegant design, it also promises to be easy to clean, adjustable and stain/scratch resistant. Many photos of products make it easier to choose.

The Kitchen and Bath showroom in Oyster Point is expansive, with many examples of remodeling possibilities. Currently gray/white/black combinations are popular.

There are modern, traditional and classic kitchen cabinet and bathroom options. "We want to help customers with finding and buying a dream kitchen or bath," says Abacioglu. He suggests a visit to the showroom. The staff is prepared to help with choices. Designing services are offered free of charge.

"We believe in supplying products that stand the test of time," says Abacioglu. Kitchen and Bath also offers long guarantees against manufacturing defects. "We want the customer to have peace of mind," he says.

Along with the large fixtures there are also shower doors, medicine cabinets, mirrors, toilet toppers, faucets, lights, fixtures and counter tops. "We are here to help," says Abacioglu.

Another area where Kitchen and Bath designers can assist is with closet makeovers, with the ability to design, build and install flexible, creative closets. A closet makeover can provide solutions for organizing and adding needed space.

Kitchen and Bath's blog showcases community projects and some "how to" projects. Currently online is a plan to freshen a kitchen without remodeling. There are also inexpensive tips on redoing backsplashes.

Abacioglu lives on the Peninsula with his wife and two children. "It's a nice place to live," he says. "The weather is good and there are no earthquakes," he adds with a smile. The Peninsula doesn't have a large Turkish community. "There are 15 or 20 families in Virginia Beach," says Abacioglu. "There is also a Turkish Cultural Center in Norfolk."

Abacioglu has family in Turkey, including four siblings. His mother and father come to the U.S. for a visit every year. He enjoys hiking, fishing and learning American history.

"I am looking forward to expanding my business," says Abacioglu. "I will increase my product line and gain more online sales. America has truly been the land of opportunity."



### About Nancy P. Sykes > 61 Articles

Nancy P. Sykes has been a Peninsula resident most of her life and has never visited another place where she would rather live. Though she is at the "retirement age," she is not interested in retiring. At this point in her life, she thinks that learning, being with friends and enjoying good health are the important

things. She is now in the 18th year of writing for the Oyster Pointer and has met some fascinating people.

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### The Kitchen & Bath Shop opens in Frederick

By CJ Fairfield cjfairfield@newspost.com Mar 3, 2019



Emin Onuk and Ugur Dogan became franchise owners of The Kitchen & Bath Shop on West Patrick Street in Frederick. Shown in the front display area are Emin Onuk, co-owner, left and James Churco, designer. Staff photo by Bill Green

Emin Onuk and Ugur Dogan became franchise owners of The Kitchen & Bath Shop in November. Onuk recently spoke with the News-Post about the different products the store offers.

### What made you want to open the franchise in Frederick?

There isn't a Kitchen and Bath Shop in this area and we found a really good location here in Frederick. Also, our franchise owner wanted a location in this area. We know the owner, that's why we partnered with him.

Does the business offer remodeling as well?

Our goal is just retail but our customers are asking for remodeling too, so we have subcontractors

and direct our customers to them. This way we are all working together.

Do you also provide installation for closets, flooring and countertops?

We have a sister store that makes the countertops, but we do the closets and flooring.

What are some of the popular items and brands that you sell?

We sell Norcraft Cabinetry, Marsh Cabinetry and also Medallion Cabinetry. Medallion is the most popular. We also have in-stock cabinets, Forevermark, which has a week time frame [to get in]. It's not our brand but we are the main distributor for Forevermark. We have our main warehouse in Virginia so if we have it in stock we can get the product right away. Even if it's not in stock we can

get it in a week.

What is your favorite part about owning The Kitchen & Bath Shop?

We are in a really good location. Right next to us is a Starbucks and a FedEx so we have a lot of walk-in customers. Route 40 is really busy so most commuters can see our sign, that's another reason why customers are coming. In Frederick we are the only location that does retail for kitchen and bath. We do the remodeling, but with our subcontractors. We also have really nice closet displays in our showroom. We have in-stock vanities in our warehouse and we can bring them to our customers in a couple of days. We have 200 different styles of vanities in stock. We

can also get custom closets in a few weeks.

Follow CJ Fairfield on Twitter @FairfieldCj

If You Go

Address: 1046 W. Patrick Street, Frederick, Suite F

Phone: 240-225-0515

Hours: Monday-Friday 9 a.m. to 6 p.m.

Saturday 10 a.m. to 5 p.m.

Case 2:22-cv-00184-JKW-DEM Document 41-5 Filed 07/05/23 Page 26 of 29 PageID# 388

The Kitchen & Bath Shop opens in Frederick | Retail | fredericknewspost.com 6/8/2021

Sunday closed

Website: kitchenandbathshop.com/frederick-md/

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BUSINESS

## Kitchen & Bath Shop opens in Newport News City Center

**By TARA BOZICK** STAFF WRITER | MAR 12, 2019



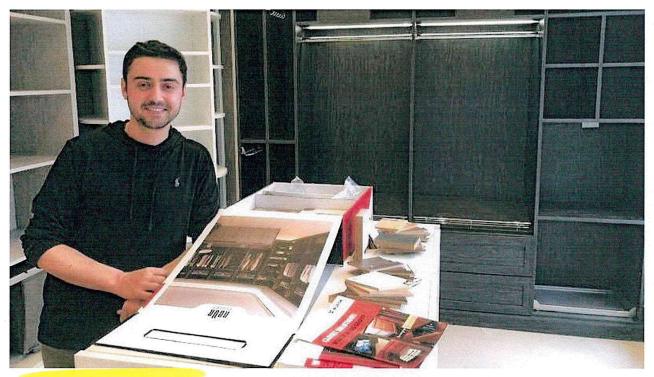




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JAVE INUVV



Kitchen & Bath Shop opened in Newport News City Center. General manager Harun Abacioglu of Newport News said the showroom can provide installation services. The store designs, builds and installs custom closets, too. (Tara Bozick / Staff / Daily Press)

Kitchen & Bath Shop opened in Newport News City Center to homeowners, contractors and home flippers.

The showroom at 704 Mariners Row sells kitchen and bathroom cabinetry, sinks and hardware along with counter tops, flooring, back splashes, tubs and showers. The store also sells custom-designed closets or organization for various spaces, like built-in storage.

ADVERTISING

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"We provide kitchen and bathroom supply floor-to-ceiling everything," general manager Harun Abacioglu said.

Abacioglu, who lives in Newport News, said the showroom can provide installation services. Kitchen & Bath Shop started in Northern Virginia and is expanding to Hampton Roads with showrooms coming to Virginia Beach and Chesapeake later this year, he said.

The website lists nine other showrooms in Virginia, Washington, D.C. and Maryland. The 3,500-square-foot Newport News showroom is still installing more bathroom and kitchen displays, but is open to customers now with a grand opening scheduled for April, Abacioglu said.

The hours are 9 a.m. to 6 p.m. Monday-Friday and 10 a.m. to 5 p.m. Saturday. For more information, visit <u>www.kitchenandbathshop.com</u> or call 757-599-9000.

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